

REMARKS/ARGUMENTS

Claims 1-16 stand rejected in the outstanding Official Action. Applicants have amended claim 1 and added newly written claims 18-21. Accordingly, claims 1-16 and 18-21 remain in this application.

The PTO's acknowledgement of the acceptability of the previously submitted formal drawings is very much appreciated. Additionally, the Examiner's consideration of the prior art previously submitted in Applicants' Information Disclosure Statement is appreciated.

While the Examiner's acknowledgment of Applicants' claim for priority is appreciated, it is also respectfully requested that the Examiner acknowledge receipt of the certified copy of the priority document filed in the PCT International application as forwarded by WIPO (the Notice of Acceptance of Application mailed August 10, 2005 confirms the priority documents were received by the U.S. PTO PCT Receiving Office).

Claims 1, 2 and 6 stand rejected under 35 USC §102 as being anticipated by Ehbets (U.S. Patent 5,949,531). While the Examiner alleges that Ehbets teaches a bistatic radar device, the Examiner's assessment is respectfully traversed. Ehbets merely teaches a "device for distance measurement." Laser rangefinders or distance measuring devices are well known and are not bistatic laser radar devices.

The Court of Appeals for the Federal Circuit has noted in the case of *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick*, 221 USPQ 481, 485 (Fed. Cir. 1984) that "[a]nticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim."

Applicants' independent claim 1 has been amended to specifically recite details inherent in a bistatic laser radar device, i.e., both the transmit and receive channels have variable foci. There is no indication that either the transmit or the receive channel of the Ehbets device has a variable focus let alone both of them being variable foci.

In fact, the Ehbets transmit channel is specifically described as having no focus, i.e., a measuring beam 11 "which is emitted through a collimator objective lens 12 in the direction of the optical axis 13 as a parallel beam . . ." (Column 5, lines 3-7). A collimated output is a series of parallel rays having an infinite focal length and therefore there is no focus let alone a variable focus associated with the transmit channel.

While the receiving channel lens 15 would appear to have a focal length, it is fixed as movement of light guide mount 18 does not appear to vary the focus of the receive channel. Indeed there is no disclosure of such a variable focus receive channel which the Examiner believes to be contained in the Ehbets reference.

As noted above, because independent claim 1, along with newly written independent claim 18, both recite variable focus transmit channels and variable focus receive channels, and because these structures are missing from the Ehbets reference, there is no basis for a rejection of claims 1 & 18 or claims dependent thereon under 35 USC §102 and any further rejection thereunder is respectfully traversed.

Claims 3-5 and 7-16 all stand rejected under 35 USC §103 as unpatentable over Ehbets as previously applied in view of one or more of Neukermans (U.S. Publication 2002/0164100), Ortyn (U.S. Publication 2002/0093641), Tocher (U.S. Patent 5,280,332), Holton (U.S. Publication 2002/0075472) or Evans (U.S. Patent 6,323,941). Because claims 3-5 and 7-16 all

ultimately depend upon claim 1, the above comments distinguishing claim 1 from the Ehbets reference are herein incorporated by reference.

Moreover, the Ehbets reference clearly does not teach or suggest a bistatic laser radar device and indeed teaches only a laser rangefinder. Clearly, the subject matter of Ehbets has nothing to do with the subject matter of Applicants' claims, as noted above.

Additionally, because Ehbets teaches a non-focused or collimated parallel beam for its transmit channel, it fails to teach Applicants' claimed transmit channel having a variable focus. Indeed, Ehbets would clearly lead one of ordinary skill in the art away from Applicants' claimed subject matter of a variable focus transmit channel.

Further, Ehbets fails to teach a variable focus receive channel, and instead, the Ehbets teaching of a fixed focus receive channel would lead one of ordinary skill in the art away from Applicants' claimed combination of elements.

In view of the Ehbets reference teaching away from the claimed invention, the reference to Neukermans, relating to a fiber optic switch, has absolutely nothing to do with a bistatic laser radar device or the claimed components which are missing in Ehbets. Since neither Ehbets nor Neukermans are related to the technology of Applicants' independent claims 1 and 18, the combination of Ehbets and Neukermans cannot render obvious the subject matter of Applicants' claims, even if it were obvious to combine these two prior art references in the manner of Applicants' claims. There is simply no disclosure of a variable focus transmit channel and a variable focus receive channel in either of the references.

In addition, the Examiner has identified no "reason" or "motivation" for combining portions of the Ehbets and Neukermans references in the manner of Applicants' claims. As the

Court of Appeals for the Federal Circuit has consistently held, the burden is on the Patent Office to establish some “reason” or “motivation” for picking and choosing elements from among several references and then combining them in the manner of Applicants’ claim. (See, *In re Rouffet*, 47 USPQ2d 1453, 1457-8 (Fed. Cir. 1998). Here the Examiner articulates no reason or motivation for combining parts from dissimilar references.

Finally, as noted above, the Ehbets reference teaches structures and combination of structures relating to a laser rangefinder and Neukermans teaches elements of a compact fiber optic switch. Even if these two references were combined, Ehbets would lead one of ordinary skill in the art to use a collimated transmit beam which is unfocused, rather than focused, and would teach a fixed focus receive channel lens, rather than the variable focus transmit and receive channels recited in claim 1. Thus, Ehbets would clearly lead one of ordinary skill in the art away from the subject matter of Applicants’ claim 1 or claims 2-16 dependent thereon.

In view of the fact that claims 2-16 are all ultimately dependent from claim 1, the above comments with respect to the Ehbets reference are herein incorporated by reference. In view of the fact that the obviousness rejections of claims 3-5 and 7-11 all depend upon the Ehbets/Neukermans combination, the rejection fails because there is no suggestion for the combination and indeed Ehbets teaches away from such combination. The rejections of claims 12-16 over Ehbets combined with one of Tocher, Holton or Evans is respectfully traversed because Ehbets clearly teaches away from any bistatic laser radar device with variable focus transmit and receive channels.

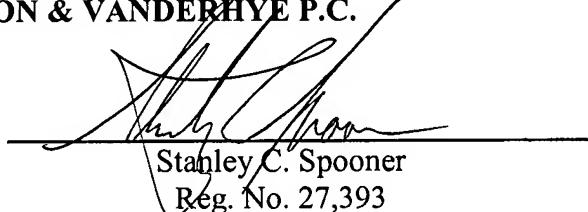
Accordingly, there is simply no basis for rejection of claims 3-5 and 7-16 and any further rejection thereunder is respectfully traversed.

Applicants have also submitted newly written claims 18-21 directed to the particular disclosed embodiments of bistatic laser radar devices discussed and depicted in Applicants' specification. Entry and consideration of newly written claims 18-21 is respectfully requested.

Having responded to all objections and rejections set forth in the outstanding Official Action, it is submitted that claims 1-16 and 18-21 are in condition for allowance and notice to that effect is respectfully solicited. In the event the Examiner is of the opinion that a brief telephone or personal interview will facilitate allowance of one or more of the above claims, he is respectfully requested to contact Applicants' undersigned representative.

Respectfully submitted,

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